

valid statement must be submitted for printing in the Congressional Record by a Chairman of the Budget Committee, or by the Chairmen jointly, as applicable. However, the Chairmen are not obligated to submit a statement. The statement, if submitted, must be titled "Budgetary Effects of PAYGO Legislation."

The Chairmen of the Budget Committees retain full discretion over the Congressional estimate of budgetary effects for the purposes of enforcing this Act, consistent with Section 312 of the Congressional Budget Act. The Congressional Budget Office will continue to provide estimates to the Budget Committees.

It is the responsibility of the Budget Committee Chairmen to ensure that statements of budgetary effects are submitted for the Congressional Record in a timely manner, and that they identify with specificity any previously submitted statement for the same legislation that it supersedes. A previous statement is no longer valid and is superseded when that House adopts an amendment to a PAYGO Act after the statement has been submitted. Any subsequent amendment, regardless of its budgetary effects, will invalidate a previously submitted estimate.

In the case of a conference report, a statement of budgetary effects is not valid if it is first submitted for printing in the Congressional Record after one House passes the report. It is incumbent on both Houses to ensure that prior to a vote in either House on PAYGO legislation leading to enrollment and presentation to the President, there is an unambiguous, fixed, and knowable statement of budgetary effects.

3. Procedure in the Senate: It is in order in the Senate for the Legislative Clerk to read the statement of budgetary effects into the record of proceedings once it has been submitted by the Chairman of the Senate Budget Committee. This reading provides an added assurance that all Senators have been given notice of the Congressional estimate of the budgetary effects prior to a vote on passage of legislation. Notice to Senators will also be provided by printing the estimate in the Congressional Record. As a practical matter, votes on some legislation subject to PAYGO may be taken after the statement has been submitted for the Congressional Record, but before it has been printed. If the vote will be taken after the statement has been printed, the Senate may waive the reading of the estimate by unanimous consent.

4. Jurisdiction of the Budget Committees: When Congress follows the procedure set forth in this section, the designated legislation is not subject to a point of order under section 306 of the Congressional Budget Act. (Section 306 generally bars the consideration of legislation dealing with matters within the jurisdiction of the Budget Committee unless it has been reported by the committee, or the committee has been discharged from further consideration.) The inclusion of the statements specified in (1)(A), (B), and (C)—without modification—in legislation subject to PAYGO avoids a point of order under section 306. If different language is used, for example, or if an authorizing committee includes some other budgetary provision, a point of order under section 306 would be in order. This is consistent with Senate precedent that "directed scoring" language in legislation is within the jurisdiction of the Budget Committees.

(b) CBO PAYGO Estimates. Subsection (b) amends Section 308 of the Congressional Budget Act of 1974 to establish a procedure by which Congress may request that CBO estimate the budgetary effects of PAYGO legislation. Consistent with section 312 of the Congressional Budget Act, and existing Congressional practice and procedure, the Chair-

men of the Budget Committees are responsible for requesting estimates from the Congressional Budget Office. CBO shall prepare its estimates consistent with section 257 of BBEDCA, but shall not count timing shifts as those are defined in section 3(8) of this Act. CBO estimates shall also be scored in accordance with the scorekeeping guidelines determined under section 252(d)(5) of BBEDCA.

(c) Current Policy Adjustments for Certain Legislation. Section 4(c) establishes procedures for making adjustments to the estimates of budgetary effects for legislation in four policy areas: (1) physician payments under section 1848 of the Social Security Act; (2) the Estate and Gift Tax; (3) the Alternative Minimum Tax; and (4) certain middle class tax cuts provided in EGTRRA and JGTRRA. The criteria for determining whether legislation, or provisions of legislation, qualify for current policy adjustments are set forth in section 7.

1. In General: If the Chairman of either Budget Committee determines that legislation meets the criteria set forth in section 7 of this Act, that Chairman shall request that CBO adjust its estimate of budgetary effects. If OMB estimates the budgetary effects of legislation that meets the criteria of section 7 because Congress has not provided a valid estimate, then OMB shall adjust its estimate of budgetary effects.

2. Adjustments: For qualifying legislation or provisions of legislation, CBO or OMB, as applicable, shall exclude from the estimate of budgetary effects no more than the amount of the budgetary effects of that legislation or provision as allowed in the applicable part of section 7. The amount that may be excluded is determined with reference to the amounts previously excluded pursuant to the same subsection of section 7. In other words, if the cost of a particular provision, when added to the costs or savings of all other provisions that previously qualified for an adjustment under that subsection of section 7 exceeds the maximum amount allowable for the subsection, the excess costs shall not be excluded from the estimate of budgetary effects. In implementing these adjustments, CBO shall use CBO's baseline estimates; this requirement is not intended to apply to estimates prepared by OMB. If CBO makes an adjustment, its estimate shall state the unadjusted and adjusted costs, and an updated total of all costs previously excluded under the same provisions of section 7.

3. Limitation on Availability of Excess Savings: The intent of the current policy adjustment is to give Congress flexibility to extend certain current policies with budgetary effects over specified periods of time. Savings from the extension of current policies with budgetary effects less than allowed under section 7—in other words extensions that generate savings in comparison with the extension of current policy—cannot be used to offset costs of other legislation. This paragraph establishes two rules that reinforce the prohibition on the fungibility of savings relative to the current policy extensions.

A. Excess savings cannot be used to offset the budgetary effects of PAYGO legislation that would not otherwise qualify for a current policy exemption under section 7. For example, if Congress were to enact only a one-year fix for the Alternative Minimum Tax, the difference in revenue generated by a two-year and one-year fix of the AMT cannot be used to offset the cost of a new entitlement program.

B. Excess savings in one of the policy areas specified in section 7 cannot be used to offset the budgetary effects of a more expensive policy extension in another policy area. For

example, if Congress were to enact only a one-year fix for the Alternative Minimum Tax, the difference in revenue generated by a two-year and one-year fix of the AMT cannot be used to offset a reduction in the estate and gift tax that costs more than is otherwise provided in section 7. In other words, savings among the policies in sections 7(c), (d), (e), and (f), and among the subparagraphs of section 7(f)(1), are not fungible.

4. Further Guidance on Estimating Budgetary Effects: To determine adjustments for the budgetary effects for qualifying legislation, CBO or OMB, as applicable, shall use the conventions concerning the stacking order of estimates of the interactive effects of AMT relief and extension of the middle class tax cuts set forth section 7(h).

5. Inclusion of Statement: Any adjustments for current policy legislation shall be explained by the appropriate Chairman of the Budget Committee in the statement "Budgetary Effects of PAYGO Legislation" submitted for printing in the Congressional Record.

(d) OMB PAYGO Scorecards. The subsection outlines OMB's responsibilities under statutory PAYGO. OMB will maintain two "PAYGO scorecards," available to the public, that maintain a running tally of the budgetary effects of enacted legislation subject to PAYGO. In making entries onto the scorecards, OMB will use the "look-back" and "averaging" rules discussed below.

OMB will use the Congressional estimate of the budgetary effects of a PAYGO Act if one was incorporated pursuant to section (4)(a). If not, OMB will enter its own estimates on the scorecards.

The scorekeeping and baseline rules for current policy adjustments are the same as those that apply to CBO and OMB for estimating all legislation subject to PAYGO. OMB estimates must be consistent with the scorekeeping approaches described in section 308 of the Congressional Budget Act, as amended by section 4(b) of this Act, and the current policy adjustments in section 7. In other words, OMB and CBO estimates should be made using the same rules and scorekeeping conventions. However, CBO will use the baseline as defined by section 257 of the Congressional Budget Act, while OMB will use the economic and technical assumptions included in the latest budget submitted by the President.

OMB will maintain two PAYGO scorecards, one covering a five-year period and the other covering a ten-year period beginning in the budget year.

OMB shall not include on either PAYGO scorecard any net savings generated by subsequently enacted legislation titled "Community Living Assistance Services and Supports Act" (CLASS Act). The CLASS Act was included in the Senate- and House-passed health care reform bills and would establish a federal insurance program for long-term care. OMB shall also not include any net savings generated by subsequent amendments to that Act, if enacted.

(e) Look-Back to Capture Current Year Effects. To take into account any budgetary effects of PAYGO legislation in the current year (i.e., the year of enactment if before October 1st), a "look-back" rule is included. The rule provides that budgetary effects in the current year are to be treated as if they were budgetary effects in the budget year (which is the year subsequent to the current year). This is why the averaging provision described below actually sums eleven years of costs (the current year, the budget year, and the nine outyears) and divides the sum by ten. This look-back provision similarly applies to the five-year scorecard.

(f) Averaging Used to Measure Compliance Over 5-Year and 10-Year Periods. For the